

### **REMARKS/ARGUMENTS**

The present amendment is in response to the Office Action mailed October 17, 2003, in which Claims 1 through 8 were rejected. Applicant has thoroughly reviewed the outstanding Office Action including the Examiner's remarks and the reference cited therein. The following remarks are believed to be fully responsive to the Office Action and, when coupled with the amendments made herein, are believed to render all claims at issue patentably distinguishable over the cited references.

Figures 1 and 2A are amended herein. New Figure 2B is submitted. The specification and Claims 1, 3, 4, 5, 7 and 8 are amended herein. No claims are cancelled. No claims are added. Accordingly, Claims 1 through 8 remain pending.

All the changes are made for clarification and are based on the application and drawings as originally filed. It is respectfully submitted that no new matter is added.

Applicant respectfully requests reconsideration in light of the above amendments and the following remarks.

### **DRAWINGS**

With respect to ***Paragraph 1*** of the Office Action, the Examiner stated that proposed FIG. 2B was not approved as being a duplicate of existing FIG.

2. Applicant submits herewith a replacement FIG. 2B which is a mirror-image of previously submitted FIG. 2B as requested by the Examiner. FIG. 1 has been amended to specify the location of "B".

With respect to **Paragraph 2** of the Office Action, the Examiner objected to the drawings because (1) plural protrusions 16 and grooves 18 (of Claims 2 and 6) and (2) the identification means configured as holes must be shown.

With respect to the first element of the objection of Paragraph 2, Applicant has added references 16' (protrusions) and 18' (grooves) to FIG. 2A and has included these references in new FIG. 2B, so that the plural protrusions and grooves which were included in the drawings as originally filed are now identified.

With respect to the second element of the objection of Paragraph 2, Applicant respectfully submits that the identification means configured as holes was originally included in the application as element 36 of the alternate embodiment of FIG. 10. Applicant includes herewith a copy of FIG. 10 as originally filed for the Examiner's convenience.

With respect to **Paragraph 3** of the Office Action, the Examiner objected to the drawings because plural protrusions 16 and grooves 18 were not shown as described in the specification. As set forth above, FIG. 2A and FIG. 2B now identify the plural protrusions and grooves.

Reconsideration and withdrawal of the Examiner's objections to the drawings are respectfully requested.

### **CLAIM REJECTIONS - 35 U.S.C. SECTION 112**

With respect to **Paragraph 4** of the Office Action, the Examiner rejected Claims 1 through 8 under 35 U.S.C. Section 112, second paragraph, as being indefinite. Specifically:

- The Examiner stated that Claims 1 and 5 each recite the limitation "the inner and outer circumferential surfaces of the side walls" in paragraph 3 of each claim but that there was insufficient antecedent basis for this limitation.

Applicant has amended Claims 1 and 5 for clarification to provide the requisite antecedent basis.

- The Examiner stated that Claim 4 recites the limitation "the display portion" in line 3 but that there was insufficient antecedent basis for this limitation.

Applicant has amended Claim 4 for clarification to provide the requisite antecedent basis.

- The Examiner stated that the structure of the bottle cap is not clearly set forth in the claims. Specific reference was made to Claims 3 and 7 and Claims 4 and 8.

With respect to Claims 3 and 7, these claims have been amended for clarification to more clearly establish the perforation measure.

With respect to Claims 4 and 8, Applicant restates that the specified holes are set forth in the alternate embodiment of FIG. 10.

Reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. Section 112 are respectfully requested

**CLAIM REJECTIONS - 35 U.S.C. SECTION 102(b)**

With respect to **Paragraphs 5 and 6** of the Office Action, the Examiner rejected Claims 1, 2, 5 and 6 under 35 U.S.C. Section 102(b) as being anticipated by U.S. Patent No. 5,092,477 to Johnson Jr. *et al.* (hereinafter referred to as Johnson Jr. *et al.*). Of the rejected claims, Claims 1 and 5 are independent.

Applicant respectfully traverses these rejections.

The present invention as currently presented in the amended claims is believed not to be anticipated by Johnson Jr. *et al.* for at least two reasons. First, independent Claims 1 and 5 have been amended for clarification to define a biasing element with the first teeth formed on the biasing element wherein the biasing element provides a biasing force for encouraging engagement of the first teeth with the second teeth. Second, independent Claims 1 and 5 have been amended for clarification to define the first and second protrusions as being spaced apart from one another by a predetermined distance when the bottle cap is in its closed position with respect to the bottle. Both of these features are included in the application as originally filed, thus Applicant respectfully submits that no new matter has been added.

Johnson Jr. *et al.* do not teach, suggest or in any way disclose the features embodied in these newly-added limitations. Accordingly, Applicant respectfully submits that independent Claims 1 and 5 are allowable over the Johnson Jr. *et al.* Insofar as rejected Claims 2 and 6 are dependent respectively upon independent Claims 1 and 5, Applicant respectfully submits that these claims are allowable over the art of record as well.

Reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. Section 102(b) are respectfully requested

#### **CLAIM REJECTIONS - 35 U.S.C. SECTION 103(a)**

With respect to **Paragraph 7** of the Office Action, the Examiner rejected Claims 1 and 5 under 35 U.S.C. Section 103(a) as being unpatentable over U.S. Patent No. 5,370,251 to Buono (hereinafter referred to as "Buono") in view of U.S. Patent No. 4,500,005 to Forrester (hereinafter referred to as "Forrester").

With respect to **Paragraph 8** of the Office Action, the Examiner rejected Claims 1, 4, 5 and 8 under 35 U.S.C. Section 103(a) as being unpatentable over Buono in view of U.S. Patent No. 4,446,979 to Gach *et al.* (hereinafter referred to as "Gach *et al.*").

With respect to **Paragraph 9** of the Office Action, the Examiner rejected Claims 1, 3, 4, 5, 7 and 8 under 35 U.S.C. Section 103(a) as being unpatentable over Buono in view of U.S. Patent No. 6,003,467 to

Shelton-Ferrell *et al.* (hereinafter referred to as "Shelton-Ferrell *et al.*").

Finally, with respect to **Paragraph 10** of the Office Action, the Examiner rejected Claims 3 and 7 under 35 U.S.C. Section 103(a) as being unpatentable over the prior art as applied to Claims 1 and 5 above, and further in view of U.S. Patent No. 4,394,916 to Smalley (hereinafter referred to as "Smalley").

Of the rejected claims, Claims 1 and 5 are independent.

Applicants respectfully traverse these rejections.

As set forth above with respect to the rejection of Claims 1, 2, 5 and 6 under 35 U.S.C. Section 102(b), independent Claims 1 and 5 have been amended for clarification to include features previously included in the application as filed but not previously claimed. It is respectfully submitted that each of Buono, Forrester, Gach *et al.*, Shelton-Ferrell *et al.*, and Smalley fails to suggest or otherwise render obvious the present invention as now claimed, when taken alone or in combination. More specifically, there is no suggestion or teaching in any of these references to define a bottle cap having the biasing element of the ratcheting means and the predetermined distance of the spacings of the first and second protrusions.

Accordingly, Applicant respectfully submits that independent Claims 1 and 5 are allowable over Buono, Forrester, Gach *et al.*, Shelton-Ferrell *et al.*, and Smalley, when taken alone or in combination. Insofar as the remaining claims rejected under 35 U.S.C. Section 103(a) are dependent upon

independent Claims 1 and 5, Applicant respectfully submits that these claims are allowable over the art of record as well.

Reconsideration and withdrawal of the Examiner's rejections under 35 U.S.C. Section 103(a) are respectfully requested

### **CONCLUSION**

In light of the above amendments and remarks, Applicant respectfully submits that all pending Claims 1 through 8 as currently presented are in condition for allowance. If, for any reason, the Examiner disagrees, please call the undersigned attorney at 248-433-7552 in an effort to resolve any matter still outstanding *before* issuing another action. The undersigned attorney is confident that any issue which might remain can readily be worked out by telephone.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'T. Moga', with a long horizontal flourish extending to the right.

Thomas T. Moga  
Registration No. 34,881  
Attorney for Applicant

DICKINSON WRIGHT PLLC  
1901 L Street, N.W., Suite 800  
Washington, D.C. 20036  
202-457-0160

Dated: **April 19, 2004**

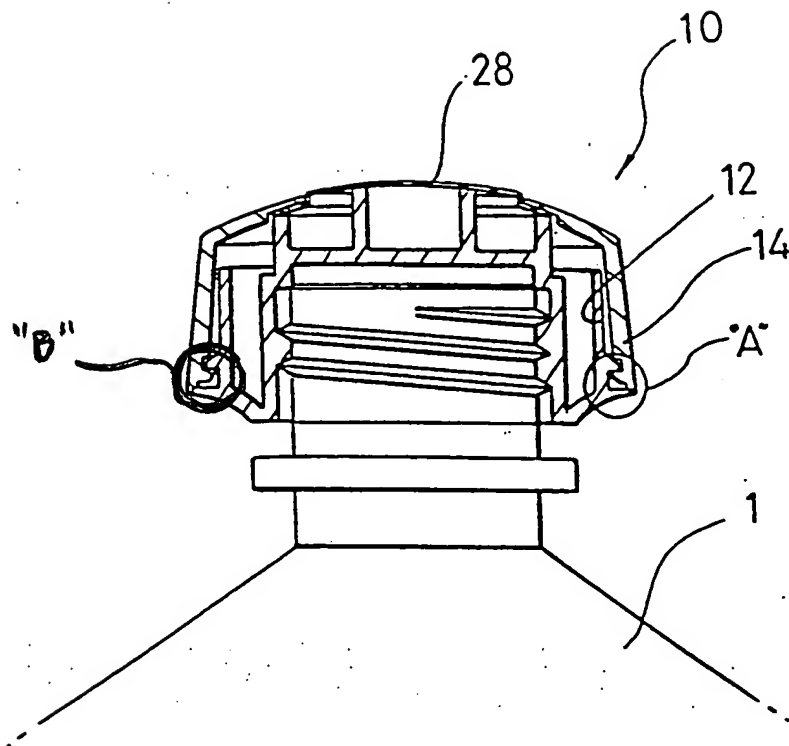
TTM/hs





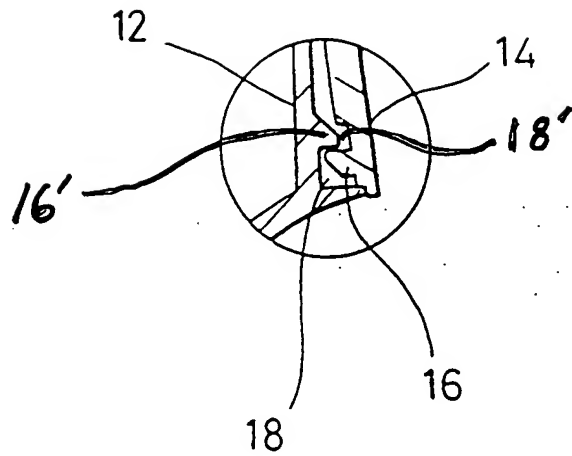
1/6

FIG. 1





2/6  
**FIG. 2A**



**FIG. 3**

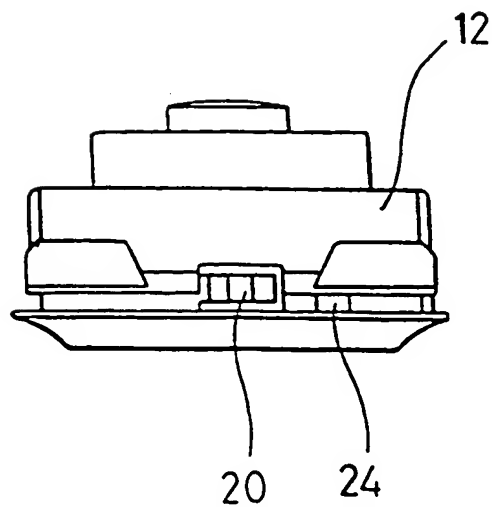




FIG. 2B

